

1 Muriel B. Kaplan, Esq. (SBN 124607)  
Michele R. Stafford, Esq. (SBN 172509)  
2 SALTZMAN & JOHNSON LAW CORPORATION  
120 Howard Street, Suite 520  
3 San Francisco, CA 94105  
(415) 882-7900  
4 (415) 882-9287 – Facsimile  
mkaplan@sjlawcorp.com  
5 mstafford@sjlawcorp.com

6 Attorneys for Plaintiffs  
7  
8

9 UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
11 (SAN FRANCISCO HEADQUARTERS)

12 GIL CROSTHWAITE, et al., as Trustees of the  
13 OPERATING ENGINEERS HEALTH AND  
WELFARE TRUST FUND FOR NORTHERN  
14 CALIFORNIA, et al.

15 Plaintiffs,

16 v.

17 GLAVIN CONSTRUCTION  
MANAGEMENT, a partnership; GLAVIN  
18 CONSTRUCTION COMPANY, INC., a  
California Corporation; and PATRICK J.  
19 GLAVIN, individually,

20 Defendants.  
21

Case No.: C07-1241 WHA

**REQUEST TO VACATE CASE  
MANAGEMENT CONFERENCE AND  
RELATED DATES; ORDER THEREON**

Date: May 8, 2008

Time: 11:00 a.m.

Courtroom: 9, 19<sup>th</sup> Floor  
450 Golden Gate Avenue  
San Francisco, California

Judge: The Honorable William H. Alsup

22  
23 Plaintiffs herein respectfully request that the case Management Conference currently  
24 scheduled for May 8, 2008, and all related dates herein be vacated.

25 1. On March 1, 2007, a complaint was filed by plaintiffs for defendants' failure to pay  
26 to delinquent contributions, liquidated damages and interest owed to plaintiffs for the period  
27 January 1, 2004 through December 31, 2005.  
28

1           2.       A Notice of Automatic Stay was filed by plaintiffs' counsel on April 19, 2007  
2 because Defendant Patrick Glavin filed a petition for relief under Chapter 7 of the Bankruptcy  
3 Code in the United States Bankruptcy Court for the Eastern District of California, Sacramento  
4 Division, Case Number 07-21176 on February 22, 2007. Plaintiff's counsel at that time  
5 mistakenly stated that the remaining defendants had not filed a petition for relief under the  
6 bankruptcy code, so no stay was in effect with respect to such Defendants.

8           3.       A Motion to Substitute Attorney was filed by present counsel on May 30, 2007.

9           4.       On July 17, 2007, plaintiffs filed a Request for Entry of Default as to Glavin  
10 Construction Management and Glavin Construction Company, Inc. Default as to these two  
11 defendants was entered by the Clerk on July 18, 2007.

12           5.       Plaintiffs filed a Motion for Default Judgment as to Glavin Construction  
13 Management and Glavin Construction Company, Inc. on August 1, 2007.

14           6.       A hearing on the Motion for Default Judgment was heard before the Honorable  
15 William Alsup on September 20, 2007 and an Order Granting Default Judgment was entered  
16 September 25, 2007.

17           7.       Upon further review by plaintiffs' counsel, it appears that the February 22, 2007  
18 Chapter 7 bankruptcy filing of Patrick J. and Maura C. Glavin also named "dba Glavin  
19 Construction Management" and "dba Glavin Construction Co., Inc." Therefore, the stay was in  
20 effect with respect to these Defendants.

21           8.       On February 11, 2008, plaintiffs filed an Amended Motion to Vacate Judgment  
22 with the Court. The Court signed this Order on February 12, 2008.

23           All defendants have filed for bankruptcy and plaintiffs are therefore stayed under 11  
24 U.S.C. Section 362 from proceeding with this action against the defendants. Plaintiffs will notify  
25

1 this court in the event that the bankruptcy is dismissed, and allowing the within action to again  
2 proceed against the defendants.

3 Plaintiffs therefore request that the Case Management Conference, currently scheduled for  
4 may 8, 2008, and related dates herein be vacated.

5 Plaintiffs further request that the Court set a Case Management Conference in 60-90 days.

6 I declare under penalty of perjury that I am the attorney for the plaintiffs in the above  
7 entitled action, and that the foregoing is true of my own knowledge.

8 Executed this 23<sup>rd</sup> day of April, 2008, at San Francisco, California.

9  
10 SALTZMAN & JOHNSON  
11 LAW CORPORATION

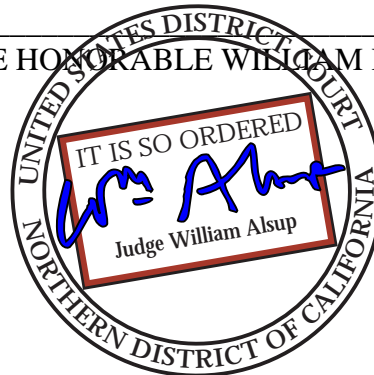
12 By: \_\_\_\_\_/s/\_\_\_\_\_  
13 Michele R. Stafford  
14 Attorneys for Plaintiffs

15 IT IS SO ORDERED.

16 The currently set Case Management Conference and all related dates are hereby vacated. A  
17 Case Management conference is reset for August 7, 2008, at 11:00 a.m..

18 Dated: May 6, 2008.\_\_\_\_\_

19 THE HONORABLE WILLIAM H. ALSUP



PROOF OF SERVICE

I, the undersigned, declare:

I am a citizen of the United States and am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to this action. My business address is 120 Howard Street, Suite 520, San Francisco, California 94105.

On April 23, 2008, I served the following document:

**REQUEST TO VACATE CASE MANAGEMENT CONFERENCE  
AND RELATED DATES**

on the interested parties in said action by placing a true and exact copy of each document in a sealed envelope with postage thereon fully prepaid, in a United States Post Office box in San Francisco, California, addressed as follows:

**Glavin Construction Management  
610 Eubanks Court, Suite B-6  
Vacaville, CA 95688**

**Glavin Construction Company, Inc.  
610 Eubanks Court, Suite B-6  
Vacaville, CA 95688**

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 23<sup>rd</sup> day of April, 2008, at San Francisco, California.

\_\_\_\_\_/s/\_\_\_\_\_  
Vanessa de Fábrega